

641—201.25(135,75GA,ch158) Procedure for review of applications.

201.25(1) *Choice of procedures.* After the conclusion of the period provided in subrule 201.24(2) for the applicant to respond to comments, the department shall select one of the two procedures provided in subrule 201.25(2). In determining which procedure to use, the department shall consider the following criteria:

- a.* The size of the proposed arrangement, in terms of number of parties and amount of money involved;
- b.* The complexity of the proposed arrangement;
- c.* The novelty of the proposed arrangement;
- d.* The substance and quantity of the comments received; and
- e.* The presence or absence of any significant gaps in the factual record.

If the applicant demands a contested case hearing no later than the conclusion of the period provided in subrule 201.24(2) for the applicant to respond to comments, the department shall not select a procedure. Instead, the applicant shall be given a contested case proceeding as a matter of right.

201.25(2) *Procedures available.*

a. Decision on the written record. The department may issue a decision based on the application, the comments and the applicant's responses to the comments, to the extent each is relevant. In making the decision, the department may consult with the attorney general or the staff of the department and may rely on department data.

b. Contested case hearing. The department may order a contested case hearing. A contested case hearing shall be heard before an administrative law judge who shall issue a written recommendation to the department and shall follow the procedures in 641—Chapter 173. All factual issues relevant to a decision must be presented in the contested case. The attorney general may appear as a party. The record in the contested case shall include the application, the comments, the applicant's response to the comments, and any other evidence that is part of the record under 641—Chapter 173.